

FILED

**KESSLER TOPAZ
MELTZER & CHECK LLP**
ATTORNEYS AT LAW

2013 MAR -1 AM 10:57

CLERK'S OFFICE
WESTERN DISTRICT OF TEXAS

Writer's Direct Dial: (610) 822-0263
E-Mail: jenck@ktmc.com

BY JW
February 14, 2013

RECEIVED

Via Federal Express

A Chance to Change Foundation
5228 Classen Circle
Oklahoma City, OK 73118

Attention: Carin Cathy, Executive Director

**Re: *In re Motive, Inc. Securities Litigation*, No. A-05-CV-923-LY (W.D. Tex.) —
Paskowitz v. Ernst & Young, LLP, No. A-08-CA-188-LY (W.D. Tex.)
Donation from Cy Pres Funds**

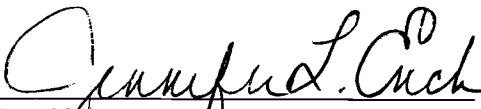
Dear Ms. Cathy:

Enclosed please find a check in the sum of \$18,553.14 serving as a donation to A Chance to Change Foundation. This donation is comprised of the funds remaining in settlement funds ("cy pres funds") following distribution to a class of plaintiffs who participated in the above-referenced actions. This donation is made pursuant to the Court's Orders Authorizing Distribution of Net Settlement Fund dated June 5, 2009 and March 3, 2010, copies of which are enclosed.

Please do not hesitate to contact me if you have any questions.

Sincerely,

KESSLER TOPAZ
MELTZER & CHECK, LLP


Jennifer L. Enck

JE/cc

Enclosures

cc: Frank Turner (A Chance to Change Foundation, Board of Directors)
The Honorable Lee Yeakel (United States District Court, Western District of Texas)
Gregory M. Castaldo, Esq.
William B. Federman, Esq. (Federman & Sherwood)
Keith E. Eggleton, Esq. (Wilson Sonsini Goodrich & Rosati)
M. Scott Incerto, Esq. (Fulbright & Jaworski L.L.P.)
Paul R. Bessette, Esq. (King & Spalding)
Shannon H. Ratliff, Esq. (Ratliff Law Firm, P.L.L.C.)

Baylake Bank
Sturgeon Bay, WI
79-210/759

IN RE MOTIVE, INC. SECURITIES LITIGATION
PASKOWITZ V. ERNST & YOUNG, LLP
CLAIMS ADMINISTRATOR
C/O A.B. DATA, LTD.
PO BOX 170500
MILWAUKEE, WI 53217-8091



53307755

A CHANCE TO CHANGE FOUNDATION
5228 CLASSEN CIRCLE
OKLAHOMA CITY, OK 73118

Check Number: 53307755
Date: 02/04/2013
Distribution Amount: \$18,553.14

A Chance to Change Foundation:

The attached distribution represents the *cy pres* proceeds from the settlement funds obtained in the class action lawsuits entitled *In re Motive, Inc. Securities Litigation*, Civil Action No. A-05-CV-923-LY and *Paskowitz v. Ernst & Young, LLP*, Civil Action No. A-08-CA-188-LY, in the United States District Court for the Western District of Texas.

Claims Administrator

CASH PROMPTLY - VOID AFTER MARCH 21, 2013

THIS CHECK IS PRINTED WITH THE VERBIAGE "SECURITY DOCUMENT" IN FLUORESCENT INK - DO NOT ACCEPT UNLESS THE WORDS ARE PRESENT

IN RE MOTIVE, INC. SECURITIES LITIGATION
PASKOWITZ V. ERNST & YOUNG, LLP
CLAIMS ADMINISTRATOR
C/O A.B. DATA, LTD.
PO BOX 170500
MILWAUKEE, WI 53217-8091

Baylake Bank
Sturgeon Bay, WI
79-210/759

02/04/2013 53307755



**PAY TO THE
ORDER OF**

A Chance to Change Foundation

\$ *** \$18,553.14 ***

*** Eighteen Thousand Five Hundred Fifty Three and 14/100 Dollars ***

DOLLARS

VOID IF NOT NEGOTIATED ON OR BEFORE MARCH 21, 2013
Please be advised that the Claims Administrator will not be liable for any
financial institution fees resulting from improper endorsement of this check.
Security features included. Details on back.

Abm G. White

Authorized Signature

CHECK IS PRINTED ON SECURITY PAPER WHICH INCLUDES A MICROPRINT BORDER & FLUORESCENT FIBERS

⑈53307755⑈ ⑆075909602⑆ ⑈7738867⑈

FILED

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

2009 JUN -5 PM 3:37

CLERK OF DISTRICT COURT
WESTERN DISTRICT OF TEXAS

IN Re MOTIVE, INC.
SECURITIES LITIGATION

Civil Action No. A-05-CV-923-LY

DEPUTY

ORDER AUTHORIZING DISTRIBUTION OF NET SETTLEMENT FUND

WHEREAS, by its Final Judgment dated July 14, 2008, this Court approved the terms of the Stipulation and Agreement of Partial Settlement dated December 6, 2007 (the "Stipulation"), providing for the payment of \$7,000,000 in cash (the "Settlement Cash") and 2.5 million shares of Motive, Inc. ("Motive") common stock issued pursuant to Section 3(a)(10) of the Securities Act (the "Settlement Stock" and, together with the Settlement Cash, the "Settlement Fund"), and the Plan of Allocation for distributing the settlement proceeds to Class Members; and

WHEREAS, this Court had directed the parties to consummate the terms of the Stipulation and Plan of Allocation; and

WHEREAS, the Settlement Cash was deposited by the Defendants into an interest-bearing escrow account maintained by JPMorgan Chase Bank, NA (the "Escrow Account") on behalf of the Class following the Court's preliminary approval of the Settlement; and

WHEREAS, following Alcatel-Lucent, Inc.'s tender offer to acquire all of Motive's outstanding common stock for \$2.23 per share, the proceeds from the Settlement Stock, \$5,575,000, were deposited into the Escrow Account; and

WHEREAS, as set forth in the Notice of Pendency of Class Action and Proposed Partial Settlement of Class Action and Complete Settlement of Derivative Action and Motion for Attorneys' Fees and Expenses (the "Notice"), the deadline for Class Members to submit Proof of Claim and Release forms ("Proofs of Claim") in order to participate in the distribution of the Settlement Fund was July 20, 2008; and

WHEREAS, in satisfaction of due process requirements, all Class Members who filed claims that were in any way ineligible or deficient were: (1) informed that their claims were ineligible or deficient; and (2) given opportunities to correct any deficiency prior to their claims being finally rejected, or to contest the determination as to the deficiency, by requesting a hearing before the Court; and

WHEREAS, the process of reviewing all Proofs of Claim has been completed; and

WHEREAS, Co-Lead Counsel now seek authorization to distribute the proceeds of the Settlement Fund to Authorized Claimants, after deduction of any taxes, fees and expenses approved by this Order; and

WHEREAS, this Court has retained jurisdiction of this Action for the purpose of considering any further application or matter which may arise in connection with the administration and execution of the Settlement and the processing of Proofs of Claim and the distribution of the Net Settlement Fund to the Authorized Claimants;

NOW, THEREFORE, upon reading and filing: (1) the Affidavit of Michelle La Count, Esq. in Support of Lead Plaintiffs' Motion for Distribution of Net Settlement Fund (the "La Count Affidavit") submitted on behalf of A.B. Data, Ltd. ("A.B. Data"), the Claims Administrator for this Action; (2) the Joint Declaration of William B. Federman and Gregory M. Castaldo of Federman & Sherwood and Barroway Topaz Kessler Meltzer & Check, LLP (formerly, Schiffrin Barroway Topaz & Kessler, LLP), respectively, Co-Lead Counsel for Lead Plaintiffs and the Class; and upon all prior proceedings heretofore had herein, and after due deliberation, it is hereby

ORDERED, that the administrative determinations of A.B. Data accepting the claims as indicated on the computer printout of accepted claims submitted and described in the La Count

Affidavit, calculated under the proposed Plan of Allocation, including claims submitted after the July 20, 2008 submission deadline, be and the same hereby are approved, and said claims are hereby accepted; and it is further

ORDERED, that the administrative determinations of A.B. Data rejecting the claims as indicated on the computer printout of rejected claims submitted with and described in the La Count Affidavit under the proposed Plan of Allocation be and the same hereby are approved, and said claims are hereby rejected; and it is further

ORDERED, that payment be made from the Settlement Fund to the Internal Revenue Service for the proper amount of taxes due and owing on the interest earned on the Settlement Fund while in escrow, if any; and it is further

ORDERED, that A.B. Data be paid the sum of \$22,466.85 from the Settlement Fund in payment for its fees and in reimbursement of its expenses incurred and to be incurred in connection with giving notice to the Class, processing the Proofs of Claim, preparing the tax returns for the Settlement Fund and distributing the Net Settlement Fund to the Authorized Claimants; and it is further

ORDERED, that the balance of the Settlement Fund after deducting payments previously allowed and set forth herein (the "Net Settlement Fund") shall be distributed to the Authorized Claimants listed on the computer printout submitted with the La Count Affidavit in proportion to each Authorized Claimant's Recognized Loss calculated pursuant to the proposed Plan of Allocation as compared to the total Recognized Losses of all accepted claimants as shown on such printout; and it is further

ORDERED, that claimants whose *pro rata* share of the Net Settlement Fund is determined to be \$10.00 or less be excluded from the distribution; and it is further

ORDERED, that the checks for distribution to the Authorized Claimants shall bear the notation "CASH PROMPTLY, VOID AND SUBJECT TO RE-DISTRIBUTION 180 DAYS AFTER DISTRIBUTION DATE." Co-Lead Counsel and A.B. Data are authorized to take appropriate action to locate and/or contact any Authorized Claimant who has not cashed his, her or its check within said time; and it is further

ORDERED, that if six (6) months after the initial distribution of the Net Settlement Fund, any portion of the Net Settlement Fund remains in the Net Settlement Fund by reason of return mail, uncashed checks or otherwise, the Claims Administrator shall (i) confirm that it has made all reasonable and diligent efforts to have Authorized Claimants who are entitled to participate in the distribution of the Net Settlement Fund to timely cash their distribution checks, and (ii) re-distribute any unclaimed settlement proceeds, after payment of any unpaid costs or fees incurred in administering the Net Settlement Fund for such re-distribution, to Class Members who have cashed their checks and would receive at least \$10.00 from such re-distribution, if such re-distribution is economically feasible. If six (6) months after such re-distribution, if undertaken, any funds remain of the unclaimed settlement proceeds, Co-Lead Counsel shall donate any funds remaining in the Net Settlement Fund to A Chance to Change Foundation, located at 5228 Classen Circle, Oklahoma City, OK 73118 (phone no. (405) 840-9000); and it is further

ORDERED, that the Court finds that the administration of the Settlement and the proposed distribution of the Net Settlement Fund comply with the terms of the Stipulation and the Plan of Allocation and that all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the claims submitted herein, or otherwise involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund are released and discharged from any and all claims arising out of such involvement, and all Class

Members, whether or not they are to receive payment from the Net Settlement Fund are barred from making any further claims against the Net Settlement Fund or the Released Persons beyond the amount allocated to them pursuant to this Order; and it is further

ORDERED, that A.B. Data is hereby authorized to discard paper or hard copies of Proofs of Claim and supporting documents not less than one (1) year after the final distribution of the Net Settlement Fund to the eligible claimants and electronic copies of the same not less than three (3) years after the final distribution of the Net Settlement Fund to the eligible claimants; and it is further

ORDERED, that this Court retain jurisdiction over any further application or matter which may arise in connection with this Action; and it is further

ORDERED, that claims submitted after May 14, 2009 may be accepted only for excusable neglect on the part of the claimant, as determined by Co-Lead Counsel.

Dated June 5, 2009



THE HONORABLE LEE YEAKE
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED
2010 MAR -3 PM 3:32
CLERK US DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY WJ
DEPUTY

Laurence Paskowitz on behalf of himself and
all others similarly situated, et al.

Plaintiffs,

vs.

Ernst and Young, LLP

Defendant.

Civil Action No. A-08-CA-188-LY

ORDER AUTHORIZING DISTRIBUTION OF NET SETTLEMENT FUND

WHEREAS, by its Order and Final Judgment dated November 23, 2009, this Court approved the terms of the Stipulation and Agreement of Settlement dated July 16, 2009 (the "Stipulation"), providing for the payment of \$995,000.00 in cash (the "Settlement Amount") on behalf of defendant Ernst & Young LLP ("E&Y"), and the Plan of Allocation for distributing the settlement proceeds to Class Members; and

WHEREAS, this Court had directed the parties to consummate the terms of the Stipulation and Plan of Allocation; and

WHEREAS, the Settlement Amount was deposited into an interest-bearing escrow account maintained by JP Morgan Chase Bank, NA (the "Escrow Account") on behalf of the Class following the Court's preliminary approval of the Settlement; and

WHEREAS, as set forth in the Notice of Proposed Settlement of Class Action with Ernst & Young LLP, Motion for Attorneys' Fees and Expenses and Settlement Hearing (the "Notice"), the deadline for Class Members, who did not previously submit a valid Proof of Claim and Release form ("Proof of Claim") in connection with the settlement obtained in the related action

entitled *In re Motive, Inc. Sec. Litig.*, Civil Action No. A-05-CV-923-LY (the "Motive Action"),¹ to submit a Proof of Claim in order to participate in the distribution of the Settlement Fund was December 2, 2009; and

WHEREAS, in satisfaction of due process requirements, all Class Members who filed claims that were in any way ineligible or deficient were: (1) informed that their claims were ineligible or deficient; and (2) given opportunities to correct any deficiency prior to their claims being finally rejected, or to contest the determination as to the deficiency, by requesting a hearing before the Court; and

WHEREAS, the process of reviewing all Proofs of Claim submitted in connection with this Action has been completed; and

WHEREAS, Co-Lead Counsel now seek authorization to distribute the proceeds of the Settlement Fund, after deduction of any taxes, fees and expenses approved by this Order, to Authorized Claimants, along with the settlement proceeds obtained in connection with the Motive Action; and

WHEREAS, this Court has retained jurisdiction of this Action for the purpose of considering any further application or matter which may arise in connection with the administration and execution of the Settlement and the processing of Proofs of Claim and the distribution of the Net Settlement Fund to the Authorized Claimants;

NOW, THEREFORE, upon reading and filing: (1) the Affidavit of Michelle La Count, Esq. in Support of Lead Plaintiffs' Motion for Distribution of Net Settlement Fund (the "La

¹ The settlement obtained in the Motive Action was granted final approval by the Court on July 14, 2008. By Order Authorizing Distribution of Net Settlement Fund dated June 5, 2009, the Court approved the plan for distribution of the settlement proceeds obtained in the Motive Action, and by Order dated August 20, 2009, the Court approved Lead Plaintiffs' motion to delay and coordinate distribution of the settlement proceeds obtained in the Motive Action with the settlement proceeds obtained in this Action.

Count Affidavit”) submitted on behalf of A.B. Data, Ltd. (“A.B. Data”), the Claims Administrator for this Action; (2) the Joint Declaration of William B. Federman and Christopher L. Nelson of Federman & Sherwood and Barroway Topaz Kessler Meltzer & Check, LLP, respectively, Co-Lead Counsel for Lead Plaintiffs and the Class; and upon all prior proceedings heretofore had herein, and after due deliberation, it is hereby

ORDERED, that the administrative determinations of A.B. Data accepting the claims as indicated on the computer printout of accepted claims submitted and described in the La Count Affidavit, calculated under the proposed Plan of Allocation, including claims submitted after the December 2, 2009 submission deadline, be and the same hereby are approved, and said claims are hereby accepted; and it is further

ORDERED, that the administrative determinations of A.B. Data rejecting the claims as indicated on the computer printout of rejected claims submitted with and described in the La Count Affidavit under the proposed Plan of Allocation be and the same hereby are approved, and said claims are hereby rejected; and it is further

ORDERED, that payment be made from the Settlement Fund to the Internal Revenue Service for the proper amount of taxes due and owing on the interest earned on the Settlement Fund while in escrow, if any; and it is further

ORDERED, that A.B. Data be paid the sum of \$13,032.01 from the Settlement Fund in payment for its fees and in reimbursement of its expenses incurred and to be incurred in connection with giving notice to the Class, processing the Proofs of Claim, preparing the tax returns for the Settlement Fund and distributing the Net Settlement Fund to the Authorized Claimants; and it is further

ORDERED, that the balance of the Settlement Fund after deducting payments previously allowed and set forth herein (the "Net Settlement Fund") shall be distributed to the Authorized Claimants listed on the computer printout submitted with the La Count Affidavit in proportion to each Authorized Claimant's Recognized Loss calculated pursuant to the proposed Plan of Allocation as compared to the total Recognized Losses of all accepted claimants as shown on such printout; and it is further

ORDERED, that claimants whose *pro rata* share of the Net Settlement Fund is determined to be \$10.00 or less be excluded from the distribution; and it is further

ORDERED, that the checks for distribution to the Authorized Claimants shall bear the notation "CASH PROMPTLY, VOID AND SUBJECT TO RE-DISTRIBUTION 180 DAYS AFTER DISTRIBUTION DATE." Co-Lead Counsel and A.B. Data are authorized to take appropriate action to locate and/or contact any Authorized Claimant who has not cashed his, her or its check within said time; and it is further

ORDERED, that if six (6) months after the initial distribution of the Net Settlement Fund, any portion of the Net Settlement Fund remains in the Net Settlement Fund by reason of return mail, uncashed checks or otherwise, the Claims Administrator shall (i) confirm that it has made all reasonable and diligent efforts to have Authorized Claimants who are entitled to participate in the distribution of the Net Settlement Fund to timely cash their distribution checks, and (ii) re-distribute any unclaimed settlement proceeds, after payment of any unpaid costs or fees incurred in administering the Net Settlement Fund for such re-distribution, to Class Members who have cashed their checks and would receive at least \$10.00 from such re-distribution, if such re-distribution is economically feasible. If six (6) months after such re-distribution, if undertaken, any funds remain of the unclaimed settlement proceeds, Co-Lead Counsel shall donate any funds

remaining in the Net Settlement Fund to A Chance to Change Foundation, located at 5228 Classen Circle, Oklahoma City, OK 73118 (phone no. (405) 840-9000); and it is further

ORDERED, that the Court finds that the administration of the Settlement and the proposed distribution of the Net Settlement Fund comply with the terms of the Stipulation and the Plan of Allocation and that all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the claims submitted herein, or otherwise involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund are released and discharged from any and all claims arising out of such involvement, and all Class Members, whether or not they are to receive payment from the Net Settlement Fund are barred from making any further claims against the Net Settlement Fund or the Released Defendant beyond the amount allocated to them pursuant to this Order; and it is further

ORDERED, that A.B. Data is hereby authorized to discard paper or hard copies of Proofs of Claim and supporting documents not less than one (1) year after the final distribution of the Net Settlement Fund to the eligible claimants and electronic copies of the same not less than three (3) years after the final distribution of the Net Settlement Fund to the eligible claimants; and it is further

ORDERED, that this Court retain jurisdiction over any further application or matter which may arise in connection with this Action; and it is further

ORDERED, that claims submitted after February 26, 2010 may be accepted only for excusable neglect on the part of the claimant, as determined by Co-Lead Counsel.

Dated: March 3, 2010


THE HONORABLE LEE YEAKEL
UNITED STATES DISTRICT JUDGE



"...for those whose lives are affected by addictions and related behavioral disorders."

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Vice Chairman-Steve Young
Secretary-Jamie Reineke
Assistant Secretary-Lorrie Jacobs
Treasurer-David Durrett
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Executive Director

Karen Cathey



February 22, 2013

The Honorable Lee Yeakel
United States District Court
Western District of Texas
501 West 5th Street, Suite 7300
Austin, TX 78701

Dear the Honorable Lee Yeakel:

We recently received a donation of \$18,553.14 to A Chance to Change Foundation from the Cy Pres Funds of Case No. A-05-CV-923-LY and Case No. A-08-CA-188-LY from Kessler, Topaz, Meltzer & Check, LLP. This letter is to serve as a personal thank you for awarding our foundation with this generous gift.

A Chance to Change has been aiding in the recovery of individuals and families affected by the disease of addiction for 34 years. Without support from people like you, our low to no cost education, prevention, and treatment services would not be possible.

We are working hard to make a difference in the lives of families in our community. We appreciate your help as we continue to provide services for those whose lives are affected by addictions and other related behavioral disorders.

Thank you for helping us save lives and provide hope for families. You are a Champion for our cause.

Sincerely,

A handwritten signature in cursive script that reads "Karen Cathey".

Karen Cathey
Executive Director

PS No goods or services were exchanged for this donation.